

REMARKS

Claims 25-51 are pending. Applicants thankfully acknowledge the Examiner's indication that claims 50, 51 and 69 are allowed and that claims 26, 31-33, 42-44, 48 and 49 would be allowable if rewritten in independent form including the base claim and any intervening claims.

Claim Rejections – 35 USC § 112

Applicants disagree with the examiner's position that the meaning of "crown sector overhangs the first pathway" has no clear meaning. Nonetheless, claims 25 and 66 have been amended above to remove such language, and therefore the 112 rejection is overcome. Applicant notes that these amendments do not raise new issues and therefore should be entered.

Claim Rejections – 35 U.S.C. § 102

Claims 25, 37-39, 41, 45, 47, 66 and 68 are rejected under 35 U.S.C. § 102(b) as being anticipated by Monachino (U.S. Patent 6,408,581). Applicant again notes that Applicant's effective filing date of October 25, 2001 removes Monachino as a section 102(b) reference.

Moreover, even if Monachino is applied as a reference under 35 USC 102(e), independent claims 25 and 66 clearly distinguish over the teachings of Monachino. Specifically, Monachino does not teach "casting in place" a crown sector element between two precast side elements as required by step E of claim 25. Likewise, Monachino does not teach casting in place one or more crown sector elements between tow spaced apart rows of pre-cast side elements as required by step C of claim 66. Applicants note that "casting in place" means that the concrete is actually poured at and sets up or cures at the final position of the crown sector element in the structure. In contrast, Monachino expressly teaches that its crown sector members 50 are "prefabricated" (i.e. precast – see Monachino at col. 7, lines 30-31). Thus, Monachino specifically teaches away from the step of "casting in place" the crown sector element.

For at least this reason, withdrawal of the 102 rejection of claims 25 and 66, as well as dependent claims 37-39, 41, 45, 47 and 68 is requested.

Moreover, specifically addressing dependent claim 68, such claim requires that "each crown sector element extends along the first pathway for a length that connects multiple pre-cast side elements of each row." (See for example Fig. 1 of the present application where each crown

sector element 80 has a length in direction 12 that is greater than the length of each side element 50, so as to connect multiple side elements 50 of each row). In contrast, Monachino teaches an arrangement in which each crown sector element 50 has the same length as, and aligns with only a single one of the precast side elements 32a of each row (see Fig. 10 of Monachino). Claim 66 is distinguishable over Monachino for at least this additional reason.

Claim Rejections – 35 U.S.C. § 103

Claims 25, 29, 66 and 67 are rejected under 35 U.S.C. § 102(a) as being unpatentable over Shall et al. (U.S. Patent 6,205,717) in view of Monachino, claims 27, 30, 34, 35 and 40 are rejected as being unpatentable over Shall et al. or Monachino in view of Olsen (U.S. Patent 4,639,345), claims 28 and 36 are rejected as being unpatentable over Shall et al. or Monachino in view of Mingolla et al. (U.S. Patent 4,271,555) and claim 46 is rejected as being unpatentable over Shall et al. in view of Monachino in further view of Davidson (U.S. Patent 2,372,187).

Claims 25 and 66

As noted by the examiner, Shall lacks casting in place a crown sector element between two precast side elements to extend from one side element to the other so that the crown sector element with two side elements forms a bridge. To overcome the deficiencies of Shall et al., the Examiner relies on Monachino. However, as carefully pointed out above, "casting in place" means that the concrete is actually poured at and sets up or cures at the final position of the crown sector element in the structure. Instead, Monachino expressly teaches that its crown sector is in fact "prefabricated" (i.e. precast – see Monachino at col. 7, lines 30-31). Thus, Monachino specifically teaches away from the step of "casting in place" the crown sector element and, therefore, the combination of Shall and Monachino does not render claims 25 or 66 obvious. Where the cited art combination lacks an element of the claim, in this case the "casting in place" requirement, the cited art combination fails to make out a *prima facie* case of obviousness. Both claims 25 and 66 are therefore patentable over the cited combination, and dependent claims 27-30, 34-41, 45-47 and 67-68 are patentable for at least the same reason.

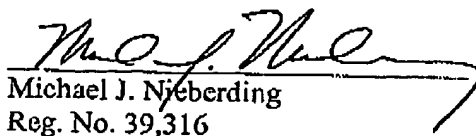
Regarding claim 29, the examiner asserts that Shall teaches using a crown sector form which has a form surface supported by a frame support located between the two pre-cast side elements and pouring concrete mix onto the crown sector form surface. Applicant

points out that this language in claim 29 refers to use of a structure such as that shown in Fig. 10 of the present application and described at page 20, line 23 thru page 21, line 26. Thus, claim 29 requires the use of a mold surface supported by a frame support. Shall does not teach use of such a form surface and frame support because none is needed for casting portion 42 of the Shall structure due to the fact that portion 42 sits atop the surface of precast elements 18 and 20 of Shall. Applicant requests reconsideration of dependent claim 29 for this additional reason.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Based upon the foregoing, issuance of a Notice of Allowance is requested. Please contact the undersigned attorney with any questions regarding this response.

Respectfully submitted,


Michael J. Nieberding
Reg. No. 39,316

THOMPSON HINE LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton, Ohio 45402-1758
Telephone (937) 443-6892
Facsimile: (937) 443-6635

545357